G. R. S. 58]

Previous references.

Med 42-03-4

1915. 16
(Courts)

File No. 174-15

Serial Nos. 1-5

Later references.

Med 117-158 1+2 B. April 16

Reserve
from
13/11/17

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 — 5

Part B for Mar 16

SUBJECT.

Levy of separate fees by Medical officers for granting certificate of injury &c to private persons & for giving evidence in the same case.

To The Regr Ch Cs
" Dir of Childdrug & Inmates
" Sr Surgeon.

J. 3708 — 11 of 17.3.16

Direct that where a Medical Officer takes a fee for granting a certificate he shd not be paid another fee for giving evidence in court re the certificate in cases where such evidence is req.

20/3/16.

W D 1851—GPB—20,000—13-12-15

G. R. S. 11] 1915.

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 174-15

FILE HEADING.

Levy of separate fees by medical officers for granting certificates of injury to private persons & for giving evidence in the same case.

From

The Registrar, Chief Court.

No. 2972/230 Dated 20th Dec 1915 Received 23.12.15

Diary No. 1895	Enclos. –	Spare Copies. –	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards for such orders as Govt may deem fit to pass copy of a letter from the D.M. Chitral noting on the above subject and states that the Judges consider that the D-M's view that such levy being improper, is correct.

NOTES AND ORDERS.

Submitted for orders.

SB 10.1.16

CMK

2) Please note as to practice in British India apart from references, such as Rules of practice.

Dto 11/1

SG 11/1/16

NOTES—First Sheet.

GPB—20,100 - 8 8-14

G. R. S. 12]

1805

General and Revenue Secretariat.	File No. 174 of 1915-16

Serial No.

Pcdf at 1824

3) The mana criminal Rule of Practice are putup. no rule regulating the grant of fee to a medical witness Summoned at the instance of a private party or that regarding fee for the grant of a medical certificate to a private person could be traced in the mana rules or in those of Bombay. If appd, the opinion of the Senior Surgeon will be called for and he will also be asked to regarding the practice in Br: India.

Sd. HL
21-1-16.

4) Yes. Draft may be putup
Sd
21/1

5) Draft subd.

Sd. HL
26-1-16.

6) Issue
Sd 26/1

Sus H
1/2

2 To The Senior Surgeon in Nagpore.

no 2945 29-1-1916

Forwards a copy of letter from the Registrar Chief Court regarding the levy of double fees by certain medical officers in the state, and calls for his opinion on the views of the D. H.

3 From the same officer

no 344 14-2-1916

Submits his views regarding the levy of double fees by certain

NOTE—Contn. sheet.

GPB—70,000—17-12-15

2293

3

(3)

G. R. S. 12]

General and Revenue Secretariat.

of File No. 174 of 191 5-16

Serial No.	
	medical subordinates in the State.
4	From the District Magistrate, Tinnevelly No 395-B 9.2.1916
	States that in course of his inspection of the Taluk Magistrate's Court at Nanguneri he came to notice that medical officers has claimes & has been paid double fees.
	7) Submits orders with a draft proceedings.
	Kg. 22/2/16.
	8) For favour of approval
	Dist. Member
	Draft approved by the Hon'ble Member
	11/3/16
	9) Done
5	To the Registrar, Chief Court, the Dt. Surgeon, Tinnevelly, the Dt. Registrar, Tinnevelly and the Senior Surgeon.
	Ref 3708-11. 17th Mar. 16
	States that Govt direct that when a medical officer takes a fee for

the criminal Dept. putup Defaulters

NOTE—Contn. sheet.

G. R. S. 12]

General and Revenue Secretariat.

GS File No. 174 of 1915. T6

Serial No.	
	granting a certificate he should not be paid another fee for giving evidence in court regarding the same certificate in cases where such evidence is required.

No 2972 Rw 1
230

Chief Court of Mysore,

Bangalore, dated the 20th December 1915.

DIARY No. J 1805

From

N.J.Gopaliengar, Esq., B.A., LL.B.,
Registrar of the Chief Court of Mysore.

Comls
FILE 174-15
SERIAL No. 1

To

D.M.Narasinga Rao, Esq., B.A., B.L.,
Secretary to the Government of Mysore,
General Department.

S i r ,

I am directed to forward for such orders as the Government may deem fit to pass, a copy of letter No: 177 dated the 30th Novembe 1915 received from the District Magistrate of Chitaldrug bringing to the notice of this Court instances of double fees levied by the Sub Assistant Surgeons of Challakere, Davangere and Hosadurg, once for giving medical certificate before lodging the complaint and again in the court for giving evidence in the same case and requesting that definite orders may be passed in the matter as in his opinion the levy of double fees by the Medical Officers is not authorised by the order of the Government contained in Proceedings No: G.3989-4033 dated the 11th of February 1904 and by this Court's Rule of Practice No: 73 dated the 5th August 1904, I am to state that in the opinion of the Judges the District Magistrate's view of the Government's intention seems to be correct.

G 3989-4038 dt 11-2-'04

I have the honor to be,

S i r ,

Your most obedient servant,

N. Gopaliengar

R E G I S T R A R :

H.C.C.

Letter No: 177 dated the 30th November 1915 from the District Magistrate of Chitaldrug to the Registrar of the Chief Court of Mysore.

Encl 6 Cs 174-15

I have the honor to invite your reference to R.P.No: 73 dated 5th August 1904, issued in accordance with Government Proceedings No.G.3989-4038 dated 11-2-1904 and to state that in pursuance of the instructions contained therein, Medical Officers are authorised to charge a fee not exceeding 2 days' pay (without allowances) and subject to a maximum of Rs 5 for a certificate, opinion, or evidence, at the instance of a private person for any purpose, whether it be in connection with a Civil or Criminal proceedings or not. Recently three instances have been brought to my notice, in which Sub Assistant Surgeons in charge of Hospitals in the Challakere, Davangere and Hosdrug Taluks have claimed a fee of Rs 5 for giving their evidence in criminal courts on behalf of a private person in addition to a fee of Rs 5 already paid to them (Medical Officers) by the above said parties for a medical certificate obtained before lodging the complaint.

2. It seems to me that the Government order referred to above does not authorise the levy of double fees in connection with one and the same matter and I am inclined to consider that where

(7

where a Medical Officer takes a fee for granting a certificate, he should not be entitled to another fee for giving evidence in Court regarding the same certificate, in cases where such evidence is required.

3. I request therefore that definite orders may be passed in the matter early.

I have, etc.,

Sd. C.S.Balasundaramyer,

District Magistrate,

Chitaldrug District.

'COPY'

REGISTRAR.

H.C.C.

G.R.S. 26]

File No. 174-15

Serial No. 2

Diary No. of letter replied to 1805

No. J 2945/En: 3

General and Revenue Secretariat

( )

, *the* 19 .

To

The Senior Surgeon in

Mysore

Date of issue 29th January, 1916.

Signed by Dr. C. Srinivasa Iyer

Sir,

I am directed to forward herewith a copy of letter no. 2972/230 & 20/21 - 12 - 1915 from the Regr., Chief Court, together with a copy of its enclosure regarding the levy of double fees by Medical Officers in the State - once for giving medical certificate before lodging is lodged the complaint and again pr

Paper under disposal (to be typed)

Encls
J Slip

(to be typed)

SUBJECT.

giving evidence in Madame Case-
and to request that Govt may
be favoured with your opinion
on the views of the Dist Magistrate.
2. The practice obtaining
in British India in the matter
may also be ascertained and
intimated to Govt. A copy of the
Rule of practice No 73 of 5th Aug 1904 referred to in the letter
of the Registrar, Chief Court,
is also enclosed.

(to be typed).

I have to
Sd/-
For Secy to Govt
Genl Deptt.

Kg. 26/1/16

List of enclosures,

Copied by

Examined by

GPB—10,000—28-2-11.

III/1572

From W ends 1572

The Senior Surgeon, 3.30
Mysore Govt., Bangalore.

To

The Secretary
to the Govt. of Mysore,
General Deptt.,
Bangalore.

Dated 14.2. 1916.

No. G. 374

Encls. 2

Subject.

Furnishing reply to No. J-2945-c
to 174-15-2 dated 29-1-16 re
the levy of double fees by
certain medical subordinates
in the State.

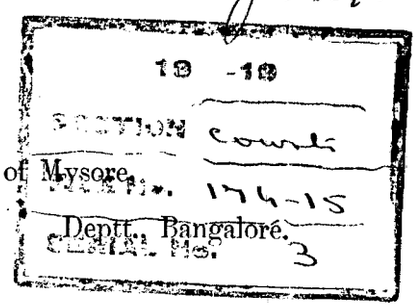
No. G. 374
Encls. 2

Office of Senior Surgeon, Mysore Govt.

Dated, Bangalore, 14.2.1916.

From
Rajakarya Pravina
Rao Bahadur T. V. Arumugum Mudaliar, Esq., M. B., C. M.,
Senior Surgeon with the Government of
H. H. the Maharaja of Mysore, Bangalore.

DIARY No. J. 2271



To

The Secretary to the Government of
H. H. the Maharaja of Mysore,
General Deptt., Bangalore.

Sir,

With reference to your letter No.J.2945-C to 174-15-2 dated 29th January 1916, regarding the receipt of double fees by certain medical subordinates in connection with criminal cases, once when granting certificates and again while giving evidence in the same case, I have the honor to state that the view of the District Magistrate, Chitaldrug, concurred in by the Chief Court, is supported by the practice obtaining in the Madras and Bombay Presidencies as may be seen from the enclosed extracts of orders of the Madras and Bombay Governments.

2. I would suggest the addition of a proviso to Rule 31 of the rules issued under Government Order No. 7332-72 Med. 89-06-57 dated 24th February 1910, as follows,-

"Provided that no fee shall be charged a second time by the Medical Officer for giving evidence in a Court to prove the certificate or opinion previously given by him to a private person and for which he has already received a fee."

I have the honor to be,
Sir,
Your most obedient servant,

T V Arumugum

Senior Surgeon.

Extract from Madras Government Order No. 755- Public, dated 12th September 1908.

****

A fee may be charged for a certificate or opinion given by a medical officer in Government, Municipal or Local Fund Service at the instance of a private person treated or examined by him in his official capacity for any purpose whether it be in connection with a civil or criminal proceeding or not, and the fact that such person was treated in a State, Municipal or Local Fund hospital shall not exempt him from the payment of such fee to the certifying officer. When such a certificate or opinon is given by a Commissioned Medical Officer or a permanent Civil Surgeon, he shall be entitled to a fee at the usual rate of remuneration admissible to him in the case of an ordinary certificate. When it is given by a subordinate medical officer, the fee shall not exceed two days' salary (i.e., pay without allowances) of such officer, subject to a maximum of Rs 5.

Provided that where a private person pleads that from poverty he cannot pay the fee demanded, the Medical Officer shall not therefore refuse to treat or examine such persons and shall record the results of the examination. He may, however, in such case refuse to grant a certificate without the payment of a fee, but if he does so, he shall record his reasons for such refusal.

Provided further that a medical officer shall not levy a second fee for giving evidence in a Court to prove a certificate or opinion previously given by him to a private person and for which he has already received a fee. There is, however, no objection to a medical officer taking a fee from a private person for giving evidence in a Court in cases in which the officer has not obtained a fee beforehand for consultation or for a certificate in regard

to

to the same matter and in which he has been summoned to give evidence in Court by that person and not by the Court or another party.

"EXTRACT"

Senior Surgeon.

Bombay Government resolutions No. 5381-Judl. dated 30-8-1882 and No. 759-General dated 5-3-1884

A medical officer not being a Civil Surgeon or an officer of commissioned rank in medical charge of a Civil Station is entitled to receive a fee of Rs 16 for conducting a post-mortem examination, and to a fee of Rs 10 for conducting a medico-legal examination other than a post mortem examination, in cases not falling within the ordinary discharge of his duties, whether or not he is required under these circumstances to give evidence in a Court of Justice in connection with such examination. It is, however, to be distinctly understood that when such an officer is required under these circumstances to give evidence in a Court, he will not be entitled to any remuneration in addition to the fee above mentioned other than the usual expenses paid to witnesses. Fees cannot be granted for conducting port mortem examinations to officers on civil duty, part of whose duty it is to make such examinations as Sub Assistant Surgeons or Assistant Surgeons in charge of a dispensary.

Circular No.1309 dated 4-3-1909 of the Surgeon General with the Government of Bombay.

A Medical Officer cannot claim a fee for giving evidence in a court from a person who calls him as a witness as it does not come within the terms of Section 544, Criminal Procedure Code, and there is no provision of the law entitling him in a criminal case to refuse to give evidence unless his professional fee is paid.

"COPIES"

Senior Surgeon.

GPB—50,000—17-9-15

1915-16

From

The District Magistrate,

Tumkur District.

To

The Secretary to Government,

General Department, Bangalore.

Dated 9th

Despatched February 1916.

Received

General No.

No.

Enclosure No. Nil

Solicits instructions regarding payment to medical officers for attendance to give evidence & for granting of certificates

Office of the District Magistrate,

Tumkur District,

Dated, 9th February 1916.

Medical 110-15-1

From

K.R. Srinivasiengar, Esq., M.A.,

District Magistrate,

Tumkur District.

DIARY No. 2293

15-2-16

174-15

GENERAL No. 4

To

D.M. Narasinga Rao, Esq., B.A., B.L.,

Secretary to the Government of His Highness

the Maharaja of Mysore, General Department,

Bangalore.

Sir,

I have the honor to state that during my last inspection of the court of the Amildar Magistrate of Maddagiri, it came to my notice that in criminal cases in which the Sub-Assistant Surgeon was examined as a witness to speak to certificates granted by him to private parties, he was claiming and was being paid by the -- parties through the Court, a fee of Rs. 5/- in addition to the fee received by him from the parties for the grant of certificates. This calim is said to be based on Government Order No. 3989-4038 dated 11th February 1904 which directs that a fee not exceeding two days' pay (without allowances) and subject to a maximum of -- Rs. 5/- be charged in <u>each case</u> when a certificate, opinion, or -- evidence is given by a Medical Officer in the Government, Municipal or Local Fund service of the State at the instance of the private person.

2. As I am doubtful, however, whether the Government order -- justifies the claim for double payments made by the Sub-Assistant Surgeon - once for granting a certificate and again for giving evidence in the case (which, by the way, is a duty cast on him in common with any member of the public who is bound to attend a criminal court when required without claiming payment) I beg to

solicit

solicit the favour of clear instructions of Government in the matter.

I have the honor to be,

Sir,

Your most obedient servant,

NVR

District Magistrate,

Tumkur District.

Standing order

Re levy of double fee, by mistake

G.R.S. 28] 13/1

Diary No. of letter replied to_____

GENERAL AND REVENUE SECRETARIAT.
( )

, the E 191 .

Date of issue 14th March, 1916

Signed by Mr. C. Srinivasa Iyer

Paper under disposal

Ms File No. 174-15
Serial No. 5

Proceedings of the Government of His Highness the Maharaja of Mysore

READ—

Govt Procgs no G 3989-4038 of 11th Feby 1904 directing the levy of a fee not exceeding two days' pay, subject to a maximum of Rs 5/-, for a certificate, opinion or evidence given ~~ORDER THEREON.—No.~~ by a medical officer at the instance of a private person.

2) Letter no 2972/230 of 20th Dec. 1915 from the Registrar, Chief Court, Trivandrum for the orders of Govt—copy of a letter

P.T. over.

SUBJECT.

2) Letter from the Dist. Magistrate of Chittalmy bringing to notice instances of double fees levied by certain Sub Asst Surgeons in the Chittalmy District, once for giving medical certificate before the complaint was lodged and again for giving evidence in the same case, and stating that the Dist Court agrees with the District Magistrate in considering that where a medical officer takes a fee for granting a certificate, he shd not be entitled to another fee for giving evidence in Court regarding the same certificate in cases where such evidence is required.

3) Letter No 395 dy 9th Feb 1916 from the Dist. Magistrate, Tumkur Dist, bringing to notice the payment of double fee in similar cases on the file of the Assistant Magistrate of Maddagiri. W sl 4 of the file

4) Letter No G 374 dy 14th Feb 1916 from the Senior Surgeon Stating that the view of the Dist. Magistrate Correspondence ending with C Sl 3 of the file

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

of Chitaloop is supported by the practice obtaining in the Presidencies of Madras and Bombay and suggesting the addition of a proviso to Rule 31 of the rules issued under G.O. No 7332-72/MED 89-06-57 dt 24.2.1910

Order - No J 3408-11

Govt direct that where a medical officer takes a fee for granting a certificate he shall not be paid another fee for giving evidence in Court regarding the same certificate in cases where such evidence is required. The

2). The Chief Court is requested to issue necessary instructions ~~in the matter~~ to the subordinate Courts to prevent Suckleys ~~of payment~~ double fees from the parties.

3). Separate orders will issue regarding the addition of a proviso to Rule 31 of the rules issued under Govt Proceedings dated 24th Feb 1910, above mentioned.

11/3/16

To The Registrar, Chief Court
The Dist. Magistrate of Chitaloop
+ Tumkur
The Senior Surgeon
Copy to Br VIII
Copy to Br IV for information + further action

Govt
9/17/3/1916.

for Secy to Govt
Genl Depte